

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X Case No. 07 Civ 6627 (BSJ)

PROCAPUI-PRODUCTORES DE CAMAROES
DE ICAPUI LTDA.,

Plaintiffs,

-against-

ANSWER with
**AFFIRMATIVE
DEFENSES**

MARCEL GERALD LAYANI, G.F. HIGGINS
INC., THERESA HIGGINS as Executrix of
THE ESTATE OF GERALD FRANCIS HIGGINS
THOMAS HIGGINS, ROBERT HIGGINS,
RICHARD RUBIN and NOEL BLACKMAN,

Defendants.

-----X

Defendant RICHARD RUBIN, ("Defendants"), by the undersigned attorney, responds to the Complaint of plaintiff PROCAPUI PRODUCTORES DE CAMAROES DE ICAPUI LTDA ("Plaintiff") as follows:

1. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 1 of the Complaint, and leaves questions of Law for determination by the Court.

2. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 2 of the Complaint, and leaves questions of Law for determination by the Court.

3. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 3 of the Complaint.

4. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 4 of the Complaint.

5. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 5 of the Complaint.

6. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 6 of the Complaint.

7. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 7 of the Complaint.

8. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 8 of the Complaint.

9. Affirms the allegations set forth in paragraph 9 of the Complaint.

10. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 10 of the Complaint.

11. Denies the allegations set forth in paragraph 11 of the Complaint.

12. Denies the allegations set forth in paragraph 12 of the Complaint.

13. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 13 of the Complaint.

14. Denies the allegations set forth in paragraph 14 of the Complaint.

15. Denies the allegations set forth in paragraph 15 of the Complaint.

16. Denies the allegations set forth in paragraph 16 of the Complaint.

17. Denies the allegations set forth in paragraph 17 of the Complaint.

18. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 18 of the Complaint.

19. Denies the allegations set forth in paragraph 19 of the Complaint.

20. Denies the allegations set forth in paragraph 20 of the Complaint.

21. Denies the allegations set forth in paragraph 21 of the Complaint.
22. Denies the allegations set forth in paragraph 22 of the Complaint.
23. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 23 of the Complaint.
24. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 24 of the Complaint.
25. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 25 of the Complaint.
26. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 26 of the Complaint.
27. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 27 of the Complaint.
28. Denies the allegations set forth in paragraph 28 of the Complaint.
29. Denies the allegations set forth in paragraph 29 of the Complaint.
30. Denies the allegations set forth in paragraph 30 of the Complaint.
31. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 31 of the Complaint.
32. Denies the allegations set forth in paragraph 32 of the Complaint.
33. Denies the allegations set forth in paragraph 33 of the Complaint.
34. Denies the allegations set forth in paragraph 34 of the Complaint.
35. Denies the allegations set forth in paragraph 35 of the Complaint.
36. Denies the allegations set forth in paragraph 36 of the Complaint.
37. Denies the allegations set forth in paragraph 37 of the Complaint.

38. Denies the allegations set forth in paragraph 38 of the Complaint.
39. Denies the allegations set forth in paragraph 39 of the Complaint.
40. Denies the allegations set forth in paragraph 40 of the Complaint.
41. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 41 of the Complaint.
42. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 42 of the Complaint.
43. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 43 of the Complaint.
44. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 44 of the Complaint, and leaves questions of Law for determination by the court.
45. Denies the allegations set forth in paragraph 45 of the Complaint.
46. Denies the allegations set forth in paragraph 46 of the Complaint.
47. Denies the allegations set forth in paragraph 47 of the Complaint.
48. Denies the allegations set forth in paragraph 48 of the Complaint.
49. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 48 of the Complaint.
50. Denies the allegations set forth in paragraph 50 of the Complaint.
51. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 51 of the Complaint.
52. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 52 of the Complaint.

53. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 53 of the Complaint, and leaves questions of Law for determination by the Court.

54. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 55 of the Complaint.

55. Denies the allegations set forth in paragraph 55 of the Complaint.

56. Denies the allegations set forth in paragraph 56 of the Complaint.

57. Denies the allegations set forth in paragraph 57 of the Complaint.

58. Denies the allegations set forth in paragraph 58 of the Complaint.

59. Denies the allegations set forth in paragraph 59 of the Complaint.

60. Denies the allegations set forth in paragraph 60 of the Complaint.

61. Denies the allegations set forth in paragraph 61 of the Complaint.

62. Denies the allegations set forth in paragraph 62 of the Complaint.

63. Denies the allegations set forth in paragraph 63 of the Complaint.

64. Denies the allegations set forth in paragraph 64 of the Complaint.

65. Denies the allegations set forth in paragraph 65 of the Complaint.

66. Denies the allegations set forth in paragraph 66 of the Complaint.

67. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 66 of the Complaint.

68. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 68 of the Complaint, and leaves questions of Law for determination by the Court..

69. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 69 of the Complaint, and leaves questions of Law for determination by the Court.

70. Denies the allegations set forth in paragraph 70 of the Complaint.

71. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 70 of the Complaint.

72. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 72 of the Complaint, and leaves questions of Law for determination by the Court.

73. Denies the allegations set forth in paragraph 73 of the Complaint.

74. Denies the allegations set forth in paragraph 74 of the Complaint.

75. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 74 of the Complaint.

76. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 76 of the Complaint, and leaves questions of Law for determination by the Court.

77. Denies the allegations set forth in paragraph 77 of the Complaint.

78. Denies the allegations set forth in paragraph 78 of the Complaint.

79. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 78 of the Complaint.

80. Denies the allegations set forth in paragraph 80 of the Complaint.

81. Denies the allegations set forth in paragraph 81 of the Complaint.

82. Denies the allegations set forth in paragraph 82 of the Complaint

83. Repeats and reiterates its responses to the allegations set forth in paragraphs 1 through 82 of the Complaint.

84. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 84 of the Complaint.

85. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 85 of the Complaint.

86. Lacks the knowledge or information necessary to form a belief as to the truth or veracity of the allegations set forth in paragraph 86 of the Complaint

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

87. Plaintiff has failed to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

88. Plaintiff is not in privity of contract with Defendant Richard Rubin.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

89. Plaintiff has failed to mitigate its damages.

WHEREFORE Defendant RICHARD RUBIN, respectfully requests an Order of this Court dismissing the Complaint, together with the costs and disbursements of this action, and that Plaintiff be denied all relief requested therein.

Dated: October 2, 2007
New York, New York

LAWRENCE R. LONERGAN (4744)
Attorney for Defendant
275 Seventh Avenue, 25th Floor
New York, NY 10001
(212) 206-9071

To: Luigi P. De Maio
DE MAIO & HUGHES, LLC.
Attorneys for Plaintiff
330 East 30th Street
New York, NY 10016
(212) 888-8300

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer with Affirmative Defenses was caused to be served upon De Maio & Hughes, LLC, Attorneys for Plaintiff, 330 East 30th Street, New York, NY 10016 by enclosing said documents in a postpaid sealed wrapper properly addressed to said attorneys and depositing same in an official depository under exclusive care and custody of the United States Postal Service within New York State, this 3rd day of October 2007.



Lawrence R. Lonergan [LL-4744]